93-545

Case No. _____

Supreme Court, U.S.
FILED
JUN 22 1993

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1993

JOHN LAZIRKO
Petitioner

VS

MARGUARITE BRICKMAN-ABEGGLEN
Respondent

PETITIONER FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS OF OHIO
CUYAHOGA COUNTY

PETITION FOR A WRIT OF CERTIORARI

JOHN LAZIRKO
Petitioner

5845 Amrap Drive
Parma Heights
Ohio, 44130

216-886-2148

QUESTIONS PRESENTED

In the Retrial of Parma Municipal Court Case No. 87-CV-1-1042 Judgement, (issued July 20 1989), the said Court did deny Petitioner-Appellant the rights due the Petitioner under PROCEDURAL LAW. The right to present evidence.

The Court of Appeals of Ohio, Eighth Appellate District, Case No. 59775 Judgement, (issued January 23 1992), was so blatant with obvious , deliberate, errors that it also abrogated the PROCEDURAL LAW.

PROCEDURAL LAW - Procedural Due Process - The guarante of Procedural fairness which flows from both the Fifth and Fourteenth Amendments Due Process clauses of the Constitution.

Are not these Judgement's subject to -

"Judgement is a 'VOID JUDGEMENT' if Court that rendered Judgement lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process." ?

Klugh V. U.S. DCSC.,620 F.Supp 892,901.

PARTIES TO THE PROCEEDING

1. MARGUARITE BRICKMAN-ABEGGLEN

   4708 Marcie Drive
   Cleveland, Ohio 44109

2. JUDGE KENNETH R. SPANAGEL

   Parma Municipal Court
   5750 West 54th Street
   Parma, Ohio 44129

3. JUDGE LEO M. SPELLACY presiding
   JUDGE P.J. DYKE concuring
   JUDGE J. NAHRA concuring

   Court of Appeals of Ohio
   Eighth Appeallate District
   Cuyahoga County Court House
   1 Lakeside Ave.
   Cleveland, Ohio 44113-1085

4. THOMAS J. MOYER

   Supreme Court of Ohio
   30 E. Broad Street
   Columbus, Ohio 43266-0419

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TABLE OF AUTHORITIES

NATIONAL CONSTITUTION

1. Amendment V

2. Amendment XIV

CONSTITUTION OF THE STATE OF OHIO

BILL OF RIGHTS

1. Article 1, Section 16

RE : LAWS & STATUTES

1. Klugh v. U.S. DCSC., 620 F.Supp 892, 901.

2. Graff v. Kelly, Okl., 771 P.2d 489 (1991)

3. Pennsylvania Co. v. Potter 233 P. 700, 701,108 Okl 49

CONSTITUTIONAL PROVISIONS
&
STATE OF OHIO PROVISIONS

At issue in this proceeding are:

1. Amendment V of the National Constitution Of The United States, which provides in part -

> No person shall be deprived of Life, Liberty, or property, without due process of Law.--

2. Amendment XIV of the National Constitution of the United State. Section 1 in total.

> SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without Due Process of Law; nor deny to any person the Equal Protection of the Laws.

At issue, but not relevant here.

STATE OF OHIO CONSTITUTION

1. Article 1, Section 16

LAW & STATUES

1. Klugh v. U.S. DCSC., 620 F.Supp 892, 901.

"Judgement is a 'VOID JUDGEMENT' if Court that rendered Judgement lacked Jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with Due Process."

2. Graff v. Kelly, Okl., 771 P2d 489 (1991)

"VOID JUDGEMENT," such as may be vacated at any time, is one whose invalidity appears on face of Judgement Roll".

3. Pennsylvania Co. v. Potter, 233 P. 700, 701, 108, Okl. 49

A "VOID JUDGEMENT" within the meaning of Rev.Laws 1910, -5274, 12 Okl.st Ann - 1038, is: 'A judgement which is void upon its face and requires only an inspection of the Judgement Roll to demonstrate its want of validity'.

OPINIONS BELOW

Landlord-Tenant dispute, within Territorial Jurisdiction of Parma Municipal Court.

April 14 1987: Small Claims complaint filed by Marguarite Brickman-Abegglen, Appellee, asking for - $826.97. Countercomplaint filed by John Lazirko, Appellant. Asking for $1109. in stolen property and damaged.

Oct. 30 1987: Referee's Recomendation filed. Appellee awarded $592.09. Appellant filed Appeal, Parma Municipal Court.

Dec. 27 1987: Judgement of Judge George W. Spanagel. Referee's Recomendation upheld.

Appellant appealed to Ohio Court of Appeals, Eighth District, County of Cuyahoga.

April 11 1988: Judgement issued, Ohio Court of Appeals, Eighth District. Case

No. 55203. Judgement for Appellant.

"Judgement - REVERSED AND REMANDED."

"This cause is reversed. Defandant's counterclaim is reinstated. Case remanded for new trial."

"It is, therefore, considered that said Appellant recover of said Appellee his costs herein."

Judge Blanche Krupansky
presiding Judge

STATEMENT OF THE CASE

The Petitioner does state, Petitioner is not a member of the 'Bar of This Court', nor is the Petitioner an attorney, but does claim this "WRIT OF CERTIORARI" as a right. To explain the Petitioner's reason for requesting this 'WRIT' to this Court, is simple.

1. For over 1 year the Petitioner has been under a cloud of accusation's by Appellee, Parma Referee's Court and Parma Municipal Court. Parma Municipal Court Case No. 87-CV-1-1042.

2. Petitioner appealed to Ohio Appeals Court, Eighth District of Ohio. Judgement was for Petitioner-Defendant. " REVERSED AND REMANDED ". Judge Blanche Krupansky presiding. Ohio Court of Appeals, Case No. C of A 55203.

3. Retrial was held, Judgement of Parma Municipal Court retrial of Case No. 87-CV-1-1042, Judgement for Appellee. Judge Kenneth R. Spanagel presiding.

4. In said retrial, Petitioner was denied permission to present evidence from any Court Case, or ruling, of this cited Case. Including Ohio Court of Appeals Case No. 55203. Petitioner appealed Judgement of cited retrial to Parma Municipal Court. this Appeal was never answered, to this day.

5. Petitioner appealed cited retrial Judgement - Ohio Appeals Court, Eighth District. Oral hearing was held, Judge M. Spellacy presiding. Case No. 59775. Judgement of cited Case No. 59775, was NOT for Appellee. The Judgement rendered was, 'on the face', for Judgement of Parma Municipal Court retrial Judgement.

6. Upon filing appeal with Court of Common Pleas, Cuyahoga County, Petitioner was advised by Court Attorney, of cited Court, to address the Supreme Court of Ohio. Petitioner did so, not once but twice, Both time's Peti-

tioner's 'Memorandum in Support of Jurisdiction' and the 'Request for Rehearing' were dismiss and denied - sua sponte- by the Chief Justice of the Ohio Supreme Court, Thomas J. Moyer.

Petitioner does not believe that he has experienced Justice by logic or under Law, but by men. (with the exception of the Reversed and Remanded Order of Judge Blanche Krupansky, of course).

John Lazirko

Parma Heights,
Ohio
44130

JURISDICTIONAL GROUNDS

UNITED STATES CODE
ANNOTATED

Title 28. 1257 (16)

SUPREME COURT JURISDICTION
Para. 5

A State Court Judgement, to be within Appellate Jurisdiction of United States Supreme Court, must be "Final" in two senses: It must be subject to no further view or correction in any other State tribunal, and must be an effective determination of the litigation and not of merely interlocutory or intermediate steps therein: It must be the final word of a final Court.

Market St. Ry. Co. v Ry. Com. of State of Cal. Cal. 1945

Petitioner, does also request a reading of Rule 10 (C), as listed in 'Rules of the Supreme Court of the United States'

Upon September 25 1992, Petitioner did file 'Notice of Appeal' to the Supreme Court of Ohio. A one page notice, the last paragraph, in full, being - 'Both Cases involved substantial Constitutional question's, under Article 1, Sec. 16 of the Constitution of Ohio and also under the 14th Amendment, Sec 1, of the Constitution of the United States'.

A P P E N D I X

STATEMENT OF THE FACTS

1. Small Claims Complaint filed, April 14th 1987, by Marguarite Brickman-Abegglen, being duly sworn, on oath, states she is the Plaintiff. Asking for $826.27.

2. CounterClaim submitted by John Lazirko, Defendant. Requesting Judgement for $1109.83 for stolen property and damages.

3. Trial held (Referee's Court) June 1 1987. A.G. Schleicher presiding.

4. Referee's Recommendation filed Oct. 30 1987. Judgement for Plaintiff in the amount of $592.02

5. Defendant filed appeal, Parma Municipal Court Case 89-CV-1-1042.

6. Judgement upon Defendants appeal filed Dec. 21 1987. Referee's Recommendation upheld. Judge George W. Spanagel presided.

7. Defendant filed appeal with OhioCourt of Appeals, Eighth District, Jan 11 1988.

8. "Notice to Judgement Debtor, John Lazirko, of Garnishment of Property other

than personal earnings ", filed in the Parma Municipal Court by Parma Municipal Court.

9. Feb. 2 1988 - Appeals for relief from "Notice of Garnishment" filed with Parma Munical Court by Defendant, citing Rules of Ohio Court of Appeals. Parma Municipal Court never - repeat - never answered appeal to this day, nor did Parma Municipal Court take any action of any sort on said "Notice of Garnishment."

10. Mar. 15 1989, Oral argument held at Ohio Court of Appeals, Case No. C of A 55203.

11. April 6 1989, Journal Entry and Opinion of Ohio Court of Appeals filed, Case No. 55203 - Parma Municipal Court Case No. 87-CV-1-1042 - Reversed and Remanded. " It is, therefore, considered that said Appellant recover of said Appellee his costs herein".

12. Notice from Parma Municipal Court of Retrial of Case No. 87-CV-1-1042. Judge Kenneth Spanagel to preside.

13. June 13th 1989: Retrial of cited case was held. Appellee Marguarite Brickman-Abegglen was not present, at any time during Retrial. Acting Appellee was permitted to change his testimony from former-prior Cases of Case 87-CV-1-1042. Appellant was not permitted to present any evidence from any former Court Actions of this cited Case.

14. July 20 1989, Judgement of Retrial of cited Parma Municipal Case issued. Judgement for Appellee. for $384.00 plus cost of Retrial and interest to Appellee from April 15 1987.

15. Appeal of Retrial Judgement filed with Parma Municipal Court, Aug 2 1989, citing ERRORS OF LAW, ERRORS OF FACT, and acting Appellee had perjured his former testimony. In the first week of November 1989, Appellant did approach Baliff of Judge Kenneth Spanagel, Edward Hudak, requesting an audience with Judge Kenneth Spanagel, pertaining to the submitted appeal. Baliff Hudak

returned with the statement 'the Judge will not discuss the appeal with you'.

Parma Municipal Court never - repeat - never answered filed appeal, in any way.

16. June 1 1990. Appellant did file appeal with Ohio Court of Appeals, Eighth District, Cuyahoga County. Appellants Brief followed.

17. January 11 1992, Oral hearing of Ohio Court of Appeals Case No. 59775.

18. January 23 1992, Judgement of Ohio Appeals Case No. 59775 rendered. "MODIFIED, AND AS MODIFIED AFFIRMED". Judgement for Appellee for $350.14. Said Judgement contained many miss-statements and errors.

19. Appellant, upon advise of Court Attorney of Common Pleas Court of Cuyahoga County, Ohio, did address The Ohio Supreme Court, Columbus, Ohio. Filing notice of appeal.

20. October 21 1992, Appellants MEMORANDUM IN SUPPORT OF JURISDICTION filed

with the Supreme Court of Ohio.

21. January 27 1993, "ENTRY issued by Supreme Court of Ohio, Chief Justice, "Dismissed, sua sponte, for reason that no substantial constitutional question exists herein". Supreme Court of Ohio, Case No. 92-2103.

22. March 5 1993, Appellant filed "MOTION FOR RECONSIDERATION", with Supreme Court of Ohio.

23. March 24 1993, "ENTRY" issued from Ohio Supreme Court. "REHEARING ENTRY DEnied, Thomas J. Moyer, Chief Justice.

QUESTION'S PRESENTED

(1)

PARMA MUNICIPAL COURT
5750 West 54th Street
Parma, Ohio 44129

Case No. 87-CV-1-1042
Retrial
Judge presiding
Kenneth R. Spanagel

If the Court, in the retrial of Case No. 87-CV-1-1042, did deliberatly deny the Petitioner the right to present any evidence inherent in all transcripts of previously held Court's of this cited case, while permitting acting Appellee to change his testimony as stated in the previously cited cases. Did not Parma Municipal Court abrogate Petitioner's basic rights under the 14th Amendment of the National Constitution, denying Petitioner, deliberatly, a fair trial by "Due Process of Law"?.

(2)

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
1 Lakeside Ave., Cleveland,
Ohio 44113-1085

Case No. 59775
Judge presiding
Leo M. Spellacy

When 3 members of the Judiciary, with long experience, commit more than 3 error's of fact in one Case (Case 59775), is there not cause to believe that there was a deliberatly planned effort to place a predetermined Judgement into effect? Petitioner believes that his inalienable right of "Equal Protection of the Laws" of the 14th Amendment was denied him in Court of Appeals Case No. 59775.

(3)

SUPREME COURT OF OHIO
30 E. Broad Street
Columbus, Ohio
43266-0419

Case No. 92-2103
Thomas J. Moyer
Chief Justice

re: Eighth District Court of Appeals of Ohio, Case No. 59775. The Chief Justice, Supreme Court of Ohio, did dismiss, sua sponte, said cited Case for the reason that no substantial Constitutional question exists there in. Is there a Constitutional question involved - if Judgement of said cited Case was based upon error's of fact? Thus depriving Petitioner of a fair Judgement under the "Due Process of Law" standard of the 14th Amendment. The most blatant error being in the 'Judgement' of Eighth District Court of Appeals of Ohio, Case No. 59775. - Page 8, last paragraph, Page 9, lines 1 and 2.

-Quote-

"In the instant case, the trial court judge had previously reviewed the finding's of the referee and issued a judgement accordingly. Obiously,the trial court judge was well aware of what had transpired at the referee hearing and was quite familiar with all parties and their respective testimonies. Thus, we conclude that it was harmless error for the trial courtjudge to prohibit appellant from referring to the transcript of the referee's hearing."

-Unquote-

Petitioner now states - it was NOT the trial Court Judge that had previously reviewed the Referee's report and issued Judgement. The reviewing Judge was Judge George W. Spanagel.

- Journal Entry, December 21 1987 Retrial Judge being Judge Kenneth R. Spanagel

- June 13 1989...Retrial held.

(4)

THE SUPREME COURT OF THE
UNITED STATES
WASHINGTON D.C. 20543

Case No._____

With the Judgement of REVERSED AND REMANDED. in effect, Parma Municipal Court choose to ignore it. Case No. 87-CV-1-1042 retrial became 'Ex Parte', even though the duly sworn Appellee was absent from said cited Court. Judgement for Appellee.

From the retrial of cited Parma Municipal Court Case, through Ohio Appeals Case No. 59775, (Judgement for Parma Municipal Court Judgement, in fact), through 'MEMORANDUM IN SUPPORT OF JURISDICTION' to Ohio Supreme Court, (Dismissed, sua sponte), through 'REQUESTED REHEARING ENTRY' to Ohio Supreme Court (denied), there appears to be a PATTERN OF PROTECTIONISM of Parma Municipal Court Judgement of cited retrial. Is this not in 'total violation' of the 14th Amendment of the National Constitution?.

The Petitioner request's the answer, of This August Court, as to whether each of these cited Case's or orders, are so one sided as to subject them to -

Item:

"A Judgement, or order, is 'VOID ON IT'S FACE' when invalidity is apparent upon inspection of Judgement Role".

CONCLUSION

This Petitioner does pray that this August Court does take this Writ Of Certiorari into their concideration, for Justice is of great importance to this American.

John Lazirko

5845 Amrap Drive
Parma Heights
Ohio
44130

Supreme Court, U.S.
FILED
NOV 17 1993
OFFICE OF THE CLERK

Case No, 93-545

In The

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1993

JOHN LAZIRKO
Petitioner

vs

MARGUARITE BRICKMAN-ABEGGLEN
Respondent

ON PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS OF OHIO
CUYAHOGA COUNTY

PETITIONERS BRIEF - IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

JOHN LAZIRKO
Petitioner

5845 Amrap Drive
Parma Heights
Ohio, 44130

QUESTIONS PRESENTED

In the Retrial of Parma Municipal Court, Case No. 87-CV-1-1042, Judgement issued July 20 1989, the Court did deny Petitioner-Appellant the right due the Petitioner under PROCEDURAL LAW. The right to present evidence.

The Court of Appeals of Ohio Eighth Appellate District, Case No. 59775 Judgement issued January 23 1992, was so blatant with obvious, deliberate, errors that it also did abrogate the PROCEDURAL LAW.

PROCEDURAL LAW - Procedural Due Process - The guarantee of procedural fairness which flows from both the Fifth and Fourteenth Amendments Due Process clauses of the Constitution.

Are not these Judgement's subject to -

"Judgement is a 'VOID JUDGEMENT' if Court that rendered Judgement lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with Due Process."?

Klugh v. U.S. DCSC., 620 F. Supp 894,901

PARTIES TO THE PROCEEDING

1. MARGUARITE BRICKMAN-ABEGGLEN
4708 Marcie Drive
Cleveland, Ohio 44109

2. JUDGE KENNETH R. SPANAGEL
Parma Municipal Court
5759 West 54th Street
Parma, Ohio 44129

3. JUDGE LEO M. SPELLACY presiding
Judge P.J. Dyke concuring
Judge J. Nahra concuring

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
Cuyahoga County Court House
1 Lakeside Ave.
Cleveland, Ohio 44113-1085

4. THOMAS J. MOYER Chief Justice
SUPREME COURT OF OHIO
30 E. Broad Street
3rd Floor
Columbus, Ohio 43266-0419

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20,21,22.	.	Court of Appeals of Ohio 8th Dist. Case No. 59775

TABLE OF AUTHORITIES

NATIONAL CONSTITUTION

1. Amendment V

2. Amendment XIV

CONSTITUTION OF
THE STATE OF OHIO

BILL OF RIGHTS

1. Article 1, Section 16

RE : LAWS & STATUTES

1. Klugh v. U.S. DCSC.,620 F.Supp 894, 901.

2. Graff v. Kelly, Okl. ~~771~~ 814 P.2d 489 (1991)

3. Pennsylvania Co v. Potter 233P. 700, 701, 108 Okl 49

CONSTITUTIONAL PROVISIONS
&
STATE OF OHIO PROVISIONS

At issue on this proceeding are:

1. Amendment V of the National Constitution of the United States, which provides in part --

No person shall be deprived of Life, Liberty, or Property, without Due Process of Law.

2. Amendment XIV of the National Constitution of the United States. Section 1, in total

SECTION 1. All person born or naturalized in the United States, and subject to the jurisdiction thereof, are citizen of the United States and of the State wherein they reside. No State shall make or enforce any Law which abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of Life, Liberty, or Property, without the Due Process of Law: nor deny to any person the Equal Protection of the Laws.

At issue, but not relevant here.
STATE OF OHIO CONSTITUTION
Article 1. Section 16.

LAW & STATUES

L. Klugh v. U.S. DCSC., 620 F.Supp 894, 901

"Judgement is a 'VOID JUDGEMENT' if Court that rendered Judgement lacked Jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with Due Process".

2. Graff v. Kelly, Okl., 771 P2d 489 (1991)

"VOID JUDGEMENT", such as may be vacated at any time, is one whose invalidity appears on face of Judgement Roll".

3. Pennsylvania Co. v. Potter, 233 P. 700, 701,108, Okl. 49

A "VOID JUDGEMENT" within the meaning of Rev. Laws 1910, -5274, 12 Okl.st Ann - 1038, is: "A Judgement which is voud upon its face and requires only an inspection of the Judgement Roll to demonatrate its want of validity".

OPINIONS BELOW

Landlord-Tenant dispute, within Territorial Jurisdiction of Parma Municipal Court.

April 14 1087 : Small Claims complaint filed by, sworn to, by Marguarite Brickman-Abegglen, Plaintiff-Appellee. Askin for $826.97

Countercomplaint filed ny John Lazirko Defendent-Appellant. Asking for $1109. in stolen property and damages

Oct. 30 1987 : Referee Recommendation , Plaintiff awarded $592.09.

Defendant filed Appeal, Parma Munical Court.

Dec. 27 1987 : Judge Georg W, Spanagel, Referee's Recomandation upheld.

Defendant-Appellant appeals to Ohio Court of appeals, Eighth District, Cuyahoga County.

April 11 1988 : Judgement issued, Ohio Court of Appeals. Case No. 55293. "REVERSED AND REMANDED". "This cause is reversed. Case remanded for new Trial.

Judge Blanche Krupansky
Presiding Judge

STATEMENT OF THE CASE

Landlord-Tenant dispute, within Territorial Jurisdiction of Parma Municipal Court. Case No. 87-CV-1-1042.

April 14 1987: Small Claims Complaint filed by Marguarite Brickman-Abegglen, asking for $826.97. Countercomplaint filed by John Lazirko, Defendent-Appellant. Asking for $1109, in stolen property and damages.

Oct. 30 1987: Referee's Recommendation filed. Appellee awarded $592.09. Appellant filed Appeal, Parma Municipal Court.

Dec. 27 1987: Judgement of Judge George W. Spanagel. Referee's Recommendation upheld. Appellant filed Appeal, Ohio Court of Appeals, Eighth District, County of Cuyahoga.

April 6 1989: Judgement issued, Ohio Court of Appeals, Eighth District, Case No. 55203. Judgement for Appellant. "REVERSED AND REMANDED". 'This cause

is reversed. Defendant's counterclaim is reinstated. Case remanded for new trial'. Judge Blanche Krupansky pre - siding.

June 13 1989: Retrial of Parma Municipal Court Case No. 87-CV-1-1042, Judge Kenneth R. Spanagel presided, held.

July 20 1989: Judgement of Retrial issued. Judgement for Appellee, $384.99 plus cost of Retrial and interest to Appellee from April 15 1987.

Aug. 2 1989: Appeal of Retrial of Parma Municipal Court Case No. 87-CV-1-1042, filed with Parma Municipal Court by Appellant, citing error's of Law and error's of fact. Rebutal was filed by Appellee. Parma Municipal Court never - repeat - never answered filed Appeal.

June 1 1990: Appeal filed with Ohio Court of Appeals, Eighth District, County of Cuyahoga. Oral hearing held, Jan. 11 1992. Case No. 59775, Judge Leo M. Spellacy presiding.

Jan. 23 1992: Judgement issued, Ohio Court of Appeals, Eighth District, Case No. 59775. The Judgement was NOT for Appellee, Judgement rendered was ' on the face ' for Judgement of Parma Municipal Court retrial Judgement, contaning Error's, Misquote's and an untrue Statement. -Judgement of Ohio Appeals Court, Eighth District, Case No. 59775, MODIFIED AND AS MODIFIED AFFIRMED, Judge in favor of Appellee for $350.14.

Mar. 5 1992: Notice of Appeal filed with Court of Common Pleas, Cuyahoga County. Upon advice of Court Attorney of Common Pleas Court, Appellant did begin addressing Appeal to the SUPREME COURT OF OHIO.

Sep. 25 1992: Appellant's Notice of Appeal to SUPREME COURT OF OHIO. Appellant's 'MEMORANDUM IN SUPPORT OF JURISDICTION' submitted Oct. 21 1992.

Jan. 27 1993: SUPREME COURT ENTRY issued.

SUPREME COURT OF OHIO, Case No. 92-2103. "Dismissed 'sua sponte' for reason that no substantial constitutional question exists therein". Thomas J. Moyer, Chief Justice.

Mar. 5 1993: Appellant filed 'MOTION FOR RECONSIDERATION' .

Mar. 24 1993: 'REHEARING ENTRY' DENIED, Thomas J. Moyer, Chief Justice

JURISDICTIONAL GROUNDS

UNITED STATES CODE
ANNOTATED

Title 28. 1257
(16)
SUPREME COURT JURISDICTION
Para. 5

A State Court Judgement, to be within Appellate Jurisdiction o United States Supreme Court, must nr "Final" in two senses: It must be to no further review or correction in any other State Tribunal, and must be an effective determination of the litigation and not of merely interlocutory or intermediate steps therein: Ir must be the final word of a final Court.

Market St. Ry. Co. v. Ry.Com. of State of Cal. Cal. 1945

Petitioner does also request a reading of Rule 10 (C), as listed in Rules of the Supreme Court of the United States.

Upon September 25 1992, Petitioner did file &Notice of Appeal' with the Supreme Court of Ohio. A one page notice, the last paragraph, in full, being - 'Both Case 's involved substantial Constitutional question's, under Article 1, Sec. 16 of the Constitution of Ohio and also under the 14 th Amendment of the Constitution of the United States.

APPENDIX

The Petitioner will attempt to present his case, that Parma Municipal Court, Case No. 87-CV-L-1042, and Ohio Court of Appeals, 8th Dist., Case No. 59775, in an orderly, short but accurate manner to this August Court. That both case's are subject to the rules of page 6 of this Brief. "Judgement, or Order, is 'VOID ON IT'S FACE' when invalidity is apparent upon inspection of Judgement Role".

With the Ohio Court of Appeals, 8th Dist. Case No. 55203 of ' REVERSED AND REMANDED ' of April 6 1989 in hand, Petitioner did attend the Retrial of cited Case No. 87-CV-1-1042 at Parma Municipal Court, June 13 1989. The begining of said Retrial was held in Chambers of Judge Kenneth R. Spanagel. Present were Judge Kenneth Spanagel, Defendant-Petitoner John Lazirko and Plaintiff-Respondant Alan Abegglen. Marguarite Brickman-Abegglen, sole sworn Plaintiff of record, was not present.

Mr. Abegglen addressed Judge Kenneth Spanagle and requested that the Plaintiff Case be dropped. Defendant John Lazirko stated that he did not want the Case dropped.

PARMA MUNICIPAL COURT
5750 West 54th Street
Parma, Ohio 44129

Case No. 87-CV-1-1042
Retrial
Judge presiding
Kenneth R. Spanagel

If the Court, in the Retrial of Case No. 87-CV-1-1042, did deliberatly deny the Petitioner the right to present any evidence inherent in all transcripts of previously held Court's of this cited Case, while permitting acting Appellee to change his testimony as stated in the previously cited Cases. Did not the said Court abrogate Petitioner's basic right's under the 14 Amendent of the National Constitution, denying Petitioner, deliberatly, a fair trial by "Due Process of Law".?

Parma Municipal Court, Case No. 87-CV-1-1042
June 13 1989

The Retrial had in attendance:

Judge Kenneth R. Spanagel -- Presiding
Baliff Edward Hudak
John Lazirko Petitioner
Alan Abegglen Respondant

The Retrial began--

Baliff Edward Hudak left the Court.

Court: Mr. Lazirko, are you an attorney?

Mr. Lazirko: No

Mr. Abegglen: My wife is not here, she is working, your Honor,

Court : OK

Court ; We have conditions and rules to follow here- (rullings, as stated by the Court being that no evidence or reference to any evidence presented at any previous trial of this Case, nor the Ohio Appeals Judgement or rulingwas admissable at this Retrial. Only new evidence was permitted.

NONE of the above statement's are in the Retrial Transcript. The truth that the above statement's were made is in the Retrial Transcript, where Mr. Lazirko is reminded of the Court's ruling seversl times.

(Sworn AFFIDAVIT attached)
exhibit A

As the Retrial progessed, it became clear to Petitioner, the rules were meant only for the Petitioner.

It appeared, many times, as though , with the power of the Court, the Court was the attorney for Mr. Abegglen.

Item : Transcript of cited Case.
Page 80 lines 1 thru 16

Mr. Abegglen : Mr. Lazirko is asserting that I stole window shades or removed them, to the best of my knowledge, we took down one window shade which was ripped and torn ---

Mr. Lazirko ; He's making a statement now. Let me read this to you. This is directly from the Transcript.

Court : Mr. Lazirko, we're not reading transcripts. We're asking questions in evidence, sir.

Mr. Lazirko ; Well, I'm asking if this is true.

Court : You want to ask him questions, You'll ask him --- lines 20 thru 23 ---- You want to ask him questions, fine.

Mr. Lazirko : I asked him the question and he refuses to answer.

Court : There was no Question, sir.

Mr. Lazirko ; The question was ; Did he remove all the curtain rod's?

Court ; We already have an answer to that. He said , No.

Mr. Lazirko ; All the window shades

Court : He answered that. Asked and answered. One window shade was --

Mr. Lazirko ; What was it ?

Court : --removed one which was ripped and torn.

Mr. Abegglen ; I believe that window was the one that ---

Mr. Lazirko ; I'm talking about all the window shades.

Court : It's been asked and answered Mr. Lazirko.

Mr. Lazirko : He hasn't answered it. Answered it.

Court ; His answer was he removed one window shade. Ask your next question.

Mr. Lazirko ; All right. All the traverse rods?

Mr. Abegglen ; No, I did not remove all traverse rods.

Note: The foregoing statements were in reference to - Referee's Transcript Page 52 Lines 1 thru 6.

Mr. Lazirko : "All the curtain rods, all the window shades, all the travers are gone. Only thing left were the closet shelves. Why did you take them?

Mr. Abegglen : "They're in the Garage.

Mr. Lazirko : "Pardon"

Mr. Abegglen : (to the Referee), Your Honor, they in the Garage. they're all in the Garage.

Mr. Lazirko states they have never been found

Retrial Transcript Parma Municipal Court
Case No. 87-CV-1-1042

Page 139 lines 10-11-12

Court : Okay. Now, as to your Case Mr. Lazirko, do you have any other evidence that you wish to Present -----

Page 140 lines3-4-5

Mr. Lazirko ; Then I am presenting this report known as ' REVERSED AND REMANDED '

Page 140 lines 6 thru 16

Court : Okay, well, that ------ it does not have to be entered as an exhibit, Okay?

Page 140 line 17

Mr. Lazirko ; Why not?

Page 140 lines 18-;9-20-21

Court ; Sir, I'm not going to discuss that with you. It does not have to be entered as an exhibit. We'll note ----

Page 140 lines 22-23

Mr. Lazirko ; You refuse to receive this as an exhibit?

Page 140 line 24-25
Page 1 thru 15

Court ; Sir, we have discussed in chambers, in the matter of ------

The foregoing statement's are in reference to:

Court of Appeals of Ohio
8 th Dist. Case No. 55203
Judgement issued April 6 1989

Judgement - REVERSED AND REMANDED

Page 5, Para. 1 (in total)

" In order to establish a valid contract there must be a meeting of the minds between the parties and an offer by one party and an acceptance by the other party.
Noroski v. Fallet (1982), 2 Ohio St. 3d 77,79
The judgement of the Trial Court was against the manifest weight of the evidence since plaintiffs failed to adduce any competent credible evidence going to all the elements necessary to create a contract between the parties."

Judge Blanche Krupansky
presiding

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
1 Lakeside Ave., Cleveland
Ohio. 44113-1085

Case No. 59775
Judge presiding
Leo M. Spellacy

Sp

Judges concuring
Judge P.J. Dyke
Judge J. Nahra

When 3 members of the Judiciary, with long experience, commit more than 3 errors of fact in one case (Case 59775), is there not cause to believe that there was a deliberatly planned effort to palce a predetermined Judgement into effect ?

Item: Court of Appeals of Ohio,
Eighth District
Case No. 59775
Journal Entry and Opinion
January 23, 1992 (issued)
Page 8, Para 3

State ex rel. Avellone v. Bd of Commrs of Lake City, (1989) 45 Ohio St., 3d 58 (1056.1 (1))

"A final judgement will not be disturbed (missing) unless a substantial right of a party is affected"

missing portion
"due to exclusion of evidence"

Page 8, Para 1
Lines 2,3,4,5,

Schartz v. Wells,
5 Ohio App. 3d 1 (1982)

As written in Judgement of C of A 8th Dist.
of Ohio . Case No. 59775

'Whether to admit a prior inconsistent statement which is pertinent to the credibility of a witness is a matter within the trial court's discretion.'

- - - - - - - - -

As written in N.E. Reporter, 2 nd series,
Volume 449 , Page 9

Schwartz v. Wells
5 Ohio App. 3d 1 , C of A
Warren County Jan. 6 1982

'Admissibility of evidence collateral to issue being tried and pertinent only with respect to credibility of a witness' testimony is a matter ordinarily within discretion of trial court .'

(Under lining by Petitioner)

Page 8, Para. 3.

Ferguson v. Owens (1985), 27 Ohio. 3d 155

"Error in the rejection of evidence is harmless error when rejection does not affect the substantial rights of the parties",

Petitioner does state - a CONTINUATION of an error is not 'harmless', error but a planned effort.

- - - - - -

Page 8, Para 4 (in total)
Page 9, First 2 lines

- Quote -

"In the instant case, the trial court judge had previously reviewed the findings of the referee and issued a judgement accordingly. Obviously, the trial court judge was well aware of what had transpired at the referee's hearing and was quite familiar with all parties and their respective testimonies. Thus, we conclude that it was harmless error for the trial court to prohibit appellant from referring to the transcript of the referee's hearing."

- Unquote -

The Judge who reviewed findings of Referee was:
Judge GEORGE W. SPANAGEL
Dec 21 1987

The Judge of Retrial of Case No. 87-CV-1-1042 was:
Judge Kenneth R. Spanagel
June 13 1989

(Exhibits attached) B, C

CONCLUSION

The Petitioner does believe Petitioner's effort's are short, concise and accurate . That these stated facts do present a fair case, fulfilling the requirements of ruling of ' Klugh v. U.S. DCSC., 620 F. Supp 874,901' " or acted in a manner inconsistent with Due Process ", of both cited Cases. - Parma Municipal Court No. 87-CV-1-1042 and Ohio Court of Appeals Court, 8 th Dist. Case No. 59775.

John Lazirko

Petitioner

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SERVICE

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44109

Case No. 87-CV-1-1042

PARMA MUNICIPAL COURT
Clerk of Courts
5750 West 54th Street
Parma, Ohio
44129

Case No. 87-CV-1-1042

OHIO APPEALS COURT
EIGHTH DISTRICT
Clerk of Courts
1 Lakeside Ave.
Cleveland, Ohio
44113

Case No. 59775

OHIO SUPREME COURT
Clerk of Courts
30 E. Broad Street
Columbus, Ohio
43266 - 0419

Case No. 92-2103